



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Application of Southern California Edison Company (U 338-E) for a Commission Finding that its Procurement-Related and Other Operations for the Record Period January 1 Through December 31, 2006 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and Other Regulatory Accounts; and for Recovery of \$4.863 Million Recorded in Four Memorandum Accounts.

Application 07-04-001
(Filed April 2, 2007)

MOTION FOR BIFURCATION OF THE DIVISION OF RATEPAYER ADVOCATES

Pursuant to Rule 11.1 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") hereby files this Motion to bifurcate consideration of issues related to the reasonableness of expenses incurred by Southern California Edison ("SCE") in the procurement of energy resources arising from outages at the Palo Verde nuclear generation station ("Palo Verde") during 2006 as well as SCE's compliance with Standard of Conduct #4 ("SOC4"), from the consideration of the reasonableness of the remainder of energy procurement expenses claimed in the above entitled docket. In a separate, related motion, DRA moves to submit amended testimony regarding the reasonableness of expenses arising from SCE's reliance upon procurement of energy from, and SCE's compliance with Standard of Conduct Four related to Palo Verde during 2006.

I. BACKGROUND

On April 2, 2007, PG&E filed Application (“A.”) 07-02-014 to review its entries into the Energy Resources Recovery Account (“ERRA”). DRA timely filed a Protest to the Application, including in its list of issues to review “whether the generation outages and fuel purchases were reasonable[.]” (DRA Protest, filed May 7, 2007, p. 2.) Pursuant to the schedule adopted at the PHC, DRA served its prepared testimony on August 3, 2007. In that testimony, DRA refrained from opining whether expenses arising from Palo Verde generation outages, such as costs of replacement energy while Unit One operated at lowered capacity, were reasonable and comported with SOC4.

Palo Verde had experienced diminished output during 2005 as well as in 2006. The Arizona Corporations Commission (“ACC”), which determines electric utility policies and rates for that state,¹ has recently analyzed the reasonableness of energy replacement costs arising from outages at the Palo Verde facility in its Docket No. E01345A-05-0826, *In The Matter Of The Enquiry Into The Frequency Of Unplanned Outages During 2005 At Palo Verde Nuclear Generation Station, The Causes Of The Outages, The Procurement Of Replacement Power And The Impact Of The Outages On Arizona Public Service Company’s Customers* (“ACC Decision”).² After reviewing the circumstances surrounding three unplanned outages and APS’ explanation of its actions, the ACC disallowed recovery of the replacement power costs associated with two out of the three forced outage situations at Palo Verde in 2005.³

As a result of the 2005 outages, DRA recommended within the scope of its ERRA review of SCE’s utility retained generation (“URG”) costs for 2005 that SCE endeavor to assure that refueling and maintenance outages were conducted in a timely fashion in

¹ The ACC’s review of energy procurement costs by utility companies is analogous to that exercised by the CPUC. As the ACC stated, “[Arizona Public Service (“APS”)] has the ultimate burden to demonstrate that the replacement costs for fuel and purchased power are reasonable, appropriate and not the result of imprudence.”

² (<http://images.edocket.azcc.gov/docketpdf/0000071827.pdf>)

³ *Id.* at pp. 117-32.

order to avoid reduced energy output costs.⁴ It is unclear from the record available whether SCE took such actions.

Palo Verde's Unit One continued to have a low energy production capacity in 2006. The ACC's investigation of the reasonableness of operations and maintenance and replacement power expenses during 2006 is ongoing.

II. DISCUSSION

By this motion, DRA asks that the Commission bifurcate consideration of whether expenses arising from outages at Palo Verde were reasonable and complied with SOC4 from the remainder of factual and legal questions to be considered in the instant proceeding. The Commission may grant a motion to bifurcate issues where, despite resolution of most factual and/or legal issues in a proceeding, discrete, particular findings require additional development for resolution.⁵

The outages at Palo Verde raise unusual issues that hinder the factual and legal development of conclusions regarding the reasonableness of SCE's actions in attempting to prevent and/or remedy reduced energy output at that facility. Palo Verde is located in Arizona, and is therefore outside of the Commission's ordinary jurisdiction to review generator performance. Palo Verde is a nuclear generating facility, the operations of which generally fall within the purview of the Nuclear Regulatory Commission rather than state utility commissions. Because Palo Verde is operated and maintained by Arizona Public Service, the scope of SCE's control over operations and maintenance is as yet unclear. Further, the ACC's investigation of Palo Verde outages in 2006, the record period for this ERRRA proceeding, is still ongoing. DRA thus requires additional time to develop a record from which it will be possible to conclude whether SCE's actions towards attaining least cost dispatch related to Palo Verde were adequate. Because DRA

⁴ DRA Report on Southern California Edison Company's 2005 Energy Resources Recovery Account (ERRA), filed on August 11, 2006 in A.06-04-001 at p. 10.

⁵ See e.g., *Order Implementing An Interim Allocation Of The 2004 Revenue Requirement Determination Of The California Department Of Water Resources And Truing Up The 2001-2002 Revenue Requirement Determination Of The California Department Of Water Resources*, Decision ("D.") 04-01-028, filed January 8, 2004; 2000 Cal. PUC Lexis, 1158 at p. 2-3

does not anticipate any need for further development of the record regarding issues unrelated to Palo Verde output, resolution of the remainder of issues in the instant ERRA review need not be delayed. DRA thus seeks bifurcation of Palo Verde-related issues from the remainder of SCE's 2006 ERRA review. Upon bifurcation, evidentiary hearings scheduled for September 2007 in this matter may be taken off calendar.

As a part-owner of Palo Verde, SCE has been aware of the past and ongoing investigations of the reasonableness of operations and maintenance and replacement energy costs related to Palo Verde. These proceedings as well as DRA's prior admonition to SCE to act to reduce replacement energy costs arising from Palo Verde outages have effectively notified SCE that it would be subject to ongoing scrutiny regarding Palo Verde outages. SCE has also expressed to DRA interest in producing evidence necessary to assuage DRA's concerns about SCE's energy procurement expenses. SCE will therefore not be prejudiced by any delay required by bifurcation of the resolution of issues regarding Palo Verde energy output.

SCE's reply testimony is due during the last week of August, 2007. It is possible that SCE's testimony may answer DRA's questions regarding the reasonableness of SCE's procurement activities and compliance with SOC4. DRA seeks, however, to address the possibility of bifurcation in an effort to avoid any potential prejudice to SCE arising from any further delay in resolution of questions around the Palo Verde energy output deficiencies.

In Decision (D.) 02-10-062, the Commission established the ERRA process to track fuel and purchased power revenues against actual recorded costs. Since its inception, review of ERRA remains limited in scope to the tracking of energy

procurement-related costs, including contract administration,⁶ URG fuel costs, and least cost dispatch.⁷

Decision 02-10-062, which established the ERRA process, explains the Commission's reasoning to include URG costs within the scope of ERRA review: [Review of utility retained generation] would facilitate energy cost comparison among utilities and assist us to track variable energy related costs⁸ These "variable energy related costs" include the cost of replacement energy, i.e., where the utility must purchase the power on the market or operate another of its own resources. Either type of replacement energy procurement is likely to increase ratepayer costs.

There is a direct link between forced outages and fuel costs. Because of this link, an examination of operations and maintenance activities may be necessary to determine whether deficiencies in operations and maintenance activities caused unreasonable replacement energy costs because the utility failed to effect least cost dispatch. The table below shows examples of the effects of hypothetical unplanned nuclear outages during January through March 2006 on overall energy procurement costs. During that period, the difference between costs to produce energy at Diablo Canyon and fuel replacement costs required to fulfill the same load would range from approximately \$260 million to \$352 million per month. This demonstrates that the impact of unplanned outages on fuel costs is highly relevant to energy procurement costs, which are passed directly to ratepayers.

⁶ Under the purview of Standard of Conduct 4 (SOC 4), "Prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs." (D.02-12-074, p. 54.)

⁷ "Least cost dispatch refers to a situation in which the most cost-effective mix of total resources is used, thereby minimizing the cost of delivering electric services. The utility bears the burden of proving compliance with the standard set forth in its plan." (D.05-04-036, p. 14; D.03-06-076, pp. 46-47; D.02-12-074, p. 54.)

⁸ D.02-10-062, p. 62.

Table 1
Effects of Hypothetical PG&E Unplanned Nuclear Outages
January through March 2006

		Cost per KWH (Cent)	January Total Cost	Cost per KWH (Cent)	February Total Cost	Cost per KWH (Cent)	March Total Cost
Nuclear - Net MWh							
DIABLO CANYON Unit			\$		\$		
1	797,898	0.443	3,534,687.21	667,616	2,970,890.30	815,652	3,833,563
DIABLO CANYON Unit			\$		\$		\$
2	809,499	0.443	3,586,081.13	732,929	3,261,535.06	812,419	3,818,371.43
	1,607,397	0.4430	7,120,768.34	1,400,545	6,232,425.35	1,628,071	7,651,934.52
Fuel Replacement Cost							
Oil	797,898	22.396	\$ 178,697,189.05	667,616	\$ 126,806,944.48	815,652	\$ 176,604,910.63
Oil	809,499	22.396	\$ 181,295,424.36	732,929	\$ 139,212,577.19	812,419	\$ 175,905,059.96
Oil	1,607,397	22.396	359,992,613.41	1,400,545	266,019,521.67	1,628,071	352,509,970.59
Difference			\$ 352,871,845.07		\$ 259,787,096.32		\$ 344,858,036.08
Source: PG&E's Uniform Monthly Fuels and Operations Report (2006)							

III. CONCLUSION

For all the foregoing reasons, DRA respectfully requests that the Commission bifurcate consideration of issues related to excessive outages at Palo Verde from the remainder of issues considered within the scope of SCE's 2006 ERRRA proceeding. The Commission should require DRA and SCE to attend a status conference during the week of September 24, 2007, to determine if further proceedings involving this matter are needed.

Respectfully submitted,

/s/ Elizabeth Dorman

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August 27, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**MOTION FOR BIFURCATION OF THE DIVISION OF RATEPAYER ADVOCATES**” and **PROPOSED ORDER** in **Application 07-04-001** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[X] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses, if any.

Executed on the 27th day of August 2007, at San Francisco, California.

/s/ Nelly Sarmiento

Nelly Sarmiento

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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[PROPOSED] ORDER

I hereby GRANT the Motion of the Division of Ratepayer Advocates' ("DRA") to bifurcate issues related to outages at Palo Verde Nuclear Generating Station from the remainder of issues to be considered in this proceeding.

DATED: _____, 2007 at San Francisco, California.

By: _____

Administrative Law Judge